



# OSHA INSPECTIONS

## is Your Company Prepared?

Under the Occupational Safety and Health Act of 1970, OSHA is authorized to conduct workplace inspections. On average, Federal OSHA conducts about 35,000 inspections each year. States with approved OSHA state-plans conduct approximately 60,000 inspections. Typically, these inspections occur because of imminent danger situations, severe injuries and illnesses, employee complaints and referrals, and special programs targeted at specific segments of industry.

**Given that OSHA rarely conducts an inspection that doesn't result in at least one violation cited, employers must be prepared should an OSHA officer knock on the door.**



## THE KNOCK AT THE DOOR

Inspections are usually conducted without advance notice, and made during regular working hours. If the compliance officer arrives after regular working hours, your company may request that they return during regular working hours or at some other reasonable time, unless the officer has special approval from the OSHA Area Director.

The very first thing a compliance officer will do is ask to see the owner or other representative in charge at the facility and present credentials. If this is not done, your company should ask for credentials. Be sure the officer is really who he or she claims to be. Employers have a right to do this, and in fact, OSHA encourages this practice. If in doubt, verify the authenticity of the officer by calling the nearest federal or state OSHA office.

The OSH Act says that a compliance officer may enter without delay to inspect. However, your company has a right to refuse entry without a warrant.

## OPENING CONFERENCE

After credentials are presented, and the officer is in the facility, an opening conference will be conducted. During this time, he or she will explain the scope of the inspection and may present a copy of the complaint made against the company, if applicable. Also, the walk-around procedures will be explained during the opening conference, along with an explanation of how the closing conference will be conducted.

Your company can refuse an inspection, but you risk facing a more thorough inspection when the officer does return with a warrant. The only exception to this is if a compliance officer sees hazards that are in plain view. In these instances, he or she has the right to enter a workplace to inspect without a warrant.

You can also delay an inspection if, for example, the owner of the company is away from the facility. In this case, the officer will wait a reasonable amount of time for their return, but not more than an hour typically. At that time, the officer will begin the inspection with a manager or whomever is in charge of the worksite at the time. As such, it's a good idea to form a hierarchy of the individuals who will represent the company as agents in charge regardless of who is or isn't on the premises when the compliance officer arrives.



Keep in mind that the entire inspection process can take as long as six months. It all depends on the size of the facility, the type of business, and the types and complexity of the hazards involved.

Also, this is a legal proceeding, so to speak. Avoid getting too cozy or comfortable with the inspector so that something isn't said that shouldn't be said. On the other hand, don't be resentful or difficult during the inspection; simply be polite and formal.

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# OSHA INSPECTIONS

## is Your Company Prepared? *(continued)*

### RECORDS REVIEW

One of the first things the compliance officer will do is inspect records of work-related deaths, injuries, and illnesses that are required to be kept.

Specifically, the officer will check to see that:

- The 300 Log of Work-Related Injuries and Illnesses, 301 Injury and Illness Incident Report, and 300A Summary of Work-Related Injuries and Illnesses forms are up to date;
- The 300A has been posted between February 1 and April 30, as required by law; and
- The OSHA 3165 “Job Safety and Health: It’s the Law” workplace poster is prominently displayed.

### FACILITY WALK-THROUGH

Before starting the facility walk-through, the compliance officer should have explained whether your inspection is a partial or comprehensive inspection. This will determine the route and the duration of the inspection. A partial inspection is one where the focus is limited to certain potentially hazardous areas, conditions, or practices at your workplace. A comprehensive inspection, on the other hand, is defined as a “substantially” complete inspection of the potentially high hazard areas of the workplace. This is sometimes called a “wall-to-wall” inspection.

During the walk-through, a safety professional should accompany the inspector. If the inspector is there for something serious, like a fatality investigation, then upper management and maybe even a legal representative should be along. Regardless, a representative from the company needs to be with the inspector at all times.

Whatever the inspector does, an employer should do the same. Even ask the officer for copies of readings and keep a log of all items given to the inspector. This may help your case in the event of a citation.

During the inspection, the compliance officer will point out any unsafe or unhealthful working conditions observed. Even though the officer may be inspecting a specific area of the facility, they could cite for violations seen along the way. And the officer can choose to expand the scope of the inspection based on observations and findings during the walk-through. Make sure that the officer explains in detail why the scope of the inspection has changed. You might want to get your lawyer involved if the officer wants to change the scope of the inspection. For

The compliance officer will review any required written programs, such as a Hazard Communication Program, for completeness. He or she might also request to see any other programs related to the complaint, accident, or fatality. Training records, inspections, and Safety Data Sheets for any employee exposure to toxic substances could be requested as well.



example, if an officer finds a serious machine guarding violation on one machine, he or she may choose to inspect every machine in the facility.

Some apparent violations can be corrected immediately. When they are corrected on the spot, the compliance officer will record these corrections to help in judging “good faith” (documentation of efforts that demonstrate an employer is providing a safe and healthful workplace) in compliance. Even though corrected, however, the apparent violations may still serve as the basis for a citation and, if appropriate, a notice of proposed penalty.

#### DURING THE INSPECTION, THE OFFICER WILL:

- Observe safety and health conditions and practices
- Interview employees
- Take photos and instrument readings
- Examine records
- Collect air samples
- Measure noise levels
- Survey existing engineering controls
- Monitor employee exposure to toxic fumes, gases, and dusts
- Look at any mechanical equipment that injured an employee and ask for the equipment safety manual
- Interview supervisors and managers

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# OSHA INSPECTIONS

## is Your Company Prepared? *(continued)*

### FACILITY WALK-THROUGH *(continued)*

Also, the compliance officer may stop and question workers, in private, about safety and health conditions and practices in your workplace. While talking with employees, the compliance officer will make every effort to minimize any work interruptions. Make sure that the officer is provided with a room or private area when he or she can sit down with employees to conduct formal interviews. Each employee is protected, under the OSH Act, from discrimination for exercising his or her safety and health rights including speaking to a compliance officer.



### CLOSING CONFERENCE

After the walk-around, a closing conference will be held. This is a time for free discussion of issues, and also a time for frank questions and answers.

The compliance officer will discuss all unsafe or unhealthful conditions observed on the inspection and indicate all apparent violations for which a citation may be issued or recommended. The company's appeal rights will also be

explained. No specific proposed penalties are indicated at this time; only the OSHA Area Director has the authority to discuss any monetary amounts.

During the closing conference, your company may wish to produce records to show compliance efforts and to provide information that can help OSHA determine how much time may be needed to abate an alleged violation.

## J. J. Keller Consulting Can Help

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